

8-12-1987

## Tort Claims. Limit On Attorney Fees.

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Office of the Secretary of State  
March Fong Eu


1230 J Street  
Sacramento, California 95814

Elections Division  
(916) 445-0820  
TDD: (800) 833-8683

October 9, 1987

TO: ALL COUNTY CLERKS/REGISTRARS OF VOTERS  
AND PROPONENTS (8778)

FROM:

  
DEBORAH SEILER  
Assistant to the Secretary of State  
Elections and Political Reform

The proponents of the hereinafter named proposed INITIATIVE  
STATUTE have withdrawn the measure.

TITLE: TORT CLAIMS. LIMIT ON ATTORNEY FEES.  
INITIATIVE STATUTE.

SUMMARY DATE: August 12, 1987

PROPONENTS: Gene Livingston  
Kirk West

DS/lgw

W.INIT



Office of the Secretary of State  
March Fong Eu

1230 J Street  
Sacramento, California 95814

Elections Division  
(916) 445-0820  
TDD: (800) 833-8683

August 12, 1987

TO ALL REGISTRARS OF VOTERS, OR COUNTY CLERKS, AND PROPONENTS (8763)

Pursuant to Section 3513 of the Elections Code, we transmit herewith a copy of the Title and Summary prepared by the Attorney General on a proposed Initiative Measure entitled:

**TORT CLAIMS. LIMIT ON ATTORNEY FEES.  
INITIATIVE STATUTE.**

Circulating and Filing Schedule

1. Minimum number of signatures required.....372,178  
Cal. Const., Art. II, Sec. 8(b).
2. Official Summary Date.....Wednesday, 08/12/87  
Elec. C., Sec. 3513.
3. Petition Sections:
  - a. First day Proponents can circulate Sections for  
signatures.....Wednesday, 08/12/87  
Elec. C., Sec. 3513.
  - b. Last day Proponents can circulate and file with  
the county. All Sections are to be filed at  
the same time within each  
county.....Monday, 01/11/88\*\*  
Elec. C., Secs. 3513, 3520(a).
  - c. Last day for county to determine total number  
of signatures affixed to petition and to  
transmit total to the Secretary of State.....Tuesday, 01/19/88\*\*

(If the Proponents files the petition with the county on a date prior to 01/11/88, the county has five working days from the filing of the petition to determine the total number of signatures affixed to the petition and to transmit the total to the Secretary of State.) Elec. C., Sec. 3520(b).

\* Date adjusted for official deadline which falls on Saturday.  
Elec. C., Sec. 60.

\*\* Date adjusted for official deadline which falls on a holiday.  
Elec. C., Sec. 60.

+ PLEASE NOTE: To the Proponents who may wish to qualify for the June 7, 1988 Primary Election. The law allows approximately 71 days for county election officials to check and report petition signatures and transmit results. The law also requires that this process be completed 131 days before the election in which the people will vote on the initiative. It is possible that the county may not need precisely 71 days. But if you want to be sure that this initiative qualifies for the June 7, 1988 Primary Election, you should file this petition with the county before November 19, 1987.

TORT CLAIMS. LIMIT ON ATTORNEY FEES.  
INITIATIVE STATUTE.

Page 2

August 12, 1987

- d. Secretary of State determines whether the total number of signatures filed with all county clerks meets the minimum number of required signatures, and notifies the counties.....Tuesday, 01/26/88\*\*

- e. Last day for county to determine total number of qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State.....Wednesday, 02/10/88

(If the Secretary of State notifies the county to determine the number of qualified voters who signed the petition on a date other than 01/19/88 the last day is not later than the fifteenth day after the county's receipt of notification.)  
Elec. C., Sec. 3520(d), (e).

- f. If the signature count is more than 409,395 or less than 334,961, then the Secretary of State certifies the petition has qualified or failed, and notifies the counties. If the signature count is between 334,961 and 409,395 inclusive, then the Secretary of State notifies the counties using the random sampling technique to determine the validity of all signatures.....Thursday, 02/18/88\*\*

- g. Last day for county to determine actual number of all qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State.....Saturday, 03/19/88

(If the Secretary of State notifies the county to determine the number of qualified voters who have signed the petition on a date other than 02/10/88, the last day is not later than the thirtieth day after county's receipt of notification.)  
Elec. C., Sec. 3521(b), (c).

- h. Secretary of State certifies whether the petition has been signed by the number of qualified voters required to declare the petition sufficient.....Tuesday, 03/22/88

\*\*Date varies based on receipt of county certification.

TORT CLAIMS. LIMIT ON ATTORNEY FEES.  
INITIATIVE STATUTE.

Page 3

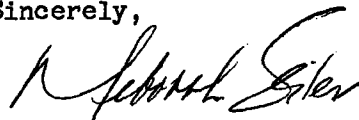
August 12, 1987

4. The Proponents of the above named measure are:

Gene Livingston  
636 Jerome Street  
Davis, California 95616  
(916) 442-1111

Kirk West  
9345 Winding Oak Drive  
Fair Oaks, California 95628  
(916) 444-6670

Sincerely,



DEBORAH SEILER  
Assistant to the Secretary of State  
Elections and Political Reform

NOTE TO PROPONENTS: Your attention is directed to Elections Code Sections 41, 44, 3501, 3507, 3508, 3516, 3517, and 3519 for appropriate format and type considerations in printing, typing, and otherwise preparing your initiative petition for circulation and signatures. Your attention is further directed to the campaign disclosure requirements of the Political Reform Act of 1974, Government Code Section 81000 et seq.

Attachment: POLITICAL REFORM ACT OF 1974 REQUIREMENTS

08/12/87

# INITIATIVE CHECK LIST

Phone Notification from AG - Date/Time: 08-12-87; 8:12 A.M.  
 Title of Initiative: TORT CLAIMS, LIMIT ON ATTORNEY FEES.  
 Type of Initiative: CA X S CA and S  
 Number of Pages 4 Number of Proponents 2  
 Date and Time Initiative will be ready for pick-up 8/12/87 - 12:00 p.m.

Initial/Date/Time

1. DA 18/12/8:30 OSSI informs Deborah/David/Barbara/Caren and Don day and time initiative will be ready for pick-up.
2. DA 18/12/8:30 OSSI gives check list to Word Processing Technician to prepare calendar.
3. WPT 18/12/12:30 Word Processing Technician prepares and proofs calendar and log and returns both to OSSI.
4. 1 1 OSSI proofs calendar and log and gives to Elections Chief for review.
5. WPT 18/12/12:40 Elections Analyst reviews and has Elections Chief sign. Elections Analyst returns signed calendar to OSSI.
6. DA 18/12/11:15 OSSI makes copies of initiative calendar for each proponent.
7. DA 18/12/11:30 OSSI attaches copy of Political Reform Act of 1974 Requirements to proponent's copy of initiative calendar.
8. DA 18/12/11:30 OSSI prepares Mail/Freight Request Form. OSSI hand carries Mail/Freight Request form and initiative calendar for each proponent (ready for mailing) to Service and Supply. Initiative calendar sent on 8/12/87 to each proponent.  
Date

(This must be sent to each proponent same day AG prepares Title and Summary).

9. DA 18/12/13:00 OSSI advises Assistant Chief when initiative calendar is sent to proponent(s).

# INITIATIVE CALENDAR CHECK LIST

Page two

10. DA 18/12/1:15 OSSI distributes copies of initiative calendar same day AG prepares Title and Summary to:
- ☒ Tony
  - ☒ Caren
  - ☒ Jerry
  - ☒ Deborah
  - ☒ Barbara
11. DA 18/12/2:45 OSSI distributes copies of initiative calendar to:
- ☒ All CC/ROV
  - ☒ Political Reform (6 copies)
  - ☒ Elections Staff
  - ☒ LA Office via LA Pouch - J.R. Schultz (12 copies)
  - ☒ Initiative mailing list
  - ☒ Extra copies for public distribution
  - ☒ Master copy
12. DA 18/12/3:00 OSSI advises Assistant Chief of completion of above distribution.
13. DA 18/12/3:30 OSSI makes copies of log and distributes as follows:
1. Initiative canvass binder
  2. Ron Wong - FTB
  3. Joe Samora - Archives
14. CR 18/12/1:30 OSSI prepares folder for public distribution.
15. CR 18/12/2 PM OSSI prepares index cards for each initiative.
16. DA 18/13/8:00 OSSI staples Mail/Freight Request form to back of INITIATIVE CHECK LIST.
17. DA 18/13/8:05 OSSI returns completed INITIATIVE CHECK LIST to Assistant Chief.
18. 8/18/19 10:00 Assistant Chief returns check list to Election Analyst.

ELECTIONS DIVISION  
MAIL/FREIGHT REQUEST

Mail Submitted to Mail Room

8/12/87 1:30  
Date Time

Request mail to be sent no later than

8/12/87  
Date

MAIL:

- ☒ 1st Class  
☐ Bulk  
☐ Book Rate  
☐ Presort  
☐ Third Class

CHARGES:

Amount: 394 eq.

Pieces: 2

FREIGHT:

- ☐ UPS  
☐ Purolator  
☐ Greyhound (Next bus out: Yes \_\_\_\_ No \_\_\_\_)  
☐ Air-Freight  
☐ Truck Lines

ACTIVITY:

- ☐ Outreach (Specify: \_\_\_\_\_)  
☐ County Mailings (#'s: \_\_\_\_\_)  
☐ Ballot Pamphlet  
☐ Other (Specify: \_\_\_\_\_)  
☒ Initiative Calendar to Proponent(s).

Mail room sent requested mail on

8/12/87

B.W.  
Initial (Service and Supply)



JOHN K. VAN DE KAMP  
Attorney General

State of California  
DEPARTMENT OF JUSTICE



P. O. Box 944255  
Sacramento 94244-2550

1515 K STREET, SUITE 511  
SACRAMENTO 95814  
(916) 445-9555

August 12, 1987

Honorable March Fong Eu  
Secretary of State  
1230 J Street  
Sacramento, California 95814

Dear Mrs. Eu:

Initiative Title and Summary.  
Our File No. SA87RF0019

Pursuant to the provisions of section 3503 and 3513 of the Elections code, you are hereby notified that on this day we mailed to the proponent(s) of the above identified proposed initiative our title and summary.

Enclosed is a copy of our transmittal letter to the proponent(s), a copy of our title and summary, a declaration of mailing thereof, and a copy of the proposed measure.

According to information available in our records, the name(s) and address(es) of the proponent(s) is as stated on the declaration of mailing.

Very truly yours,

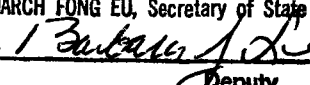
JOHN K. VAN DE KAMP  
Attorney General

  
PAUL H. DOBSON, Supervising  
Deputy Attorney General

Enclosure

0402  
**FILED**  
In the office of the Secretary of State  
of the State of California

AUG 12 1987

MARCH FONG EU, Secretary of State  
By   
Deputy

Association for  
California

July 13, 1987

Honorable John Van de Kamp  
Attorney General of California  
1515 K Street  
Sacramento, California 95814

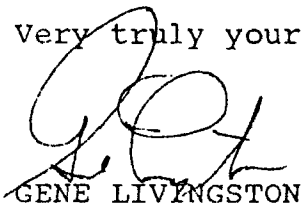
Attention: Paul Dobson,  
Supervising Deputy Attorney General

Dear Attorney General Van de Kamp:

As one of two proponents, I am submitting for preparation of title and summary a proposed statutory initiative entitled the "Lawyers Fair Fee Act."

Please find enclosed a check in the amount of two hundred dollars (\$200.00). I am a registered voter in Yolo County. My address is 636 Jerome Street, Davis, California 95616. If you have any questions, please contact me at the above address.

Very truly yours,



GENE LIVINGSTON

GL:lfs  
enclosure

lvan0713.act

JOHN K. VAN DE KAMP  
Attorney General

State of California  
DEPARTMENT OF JUSTICE



P. O. Box 944255  
Sacramento 94244-2550

1515 K STREET SUITE 311  
SACRAMENTO 95814  
916 445-9555

August 12, 1987

KIRK WEST  
9345 Winding Oak Drive  
Fair Oaks, CA 95628

GENE LIVINGSTON  
636 Jerome Street  
Davis, CA 95616

Initiative Title and Summary.  
Subject: TORT CLAIMS. LIMIT ON ATTORNEY FEES. INITIATIVE STATUTE.  
Our File No. SA87RF0019

Pursuant to your request, we have prepared the attached title and summary of the chief purposes and points of the above identified proposed initiative. A copy of our letter to the Secretary of State, as required by Elections Code sections 3503 and 3513, our declaration of mailing, and the text of your proposal that was considered is attached.

The Secretary of State will be sending you shortly a copy of the circulating and filing schedule for your proposal that will be issued by that office.

Please send us a copy of the petition after you have it printed. This copy is not for our review or approval, but to supplement our file in this matter.

Very truly yours,

JOHN K. VAN DE KAMP  
Attorney General

A handwritten signature in dark ink, appearing to read "Paul H. Dobson".

PAUL H. DOBSON, Supervising  
Deputy Attorney General

Attachment



Kirk West  
President

California Chamber of Commerce

July 13, 1987

The Honorable John Van de Kamp  
Attorney General for California  
1515 K Street  
Sacramento, California 95814

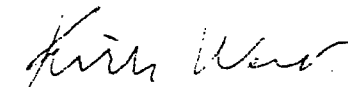
Attention: Paul Dobson, Supervising Deputy Attorney General

Dear Attorney General Van de Kamp:

As one of two proponents, I am submitting for preparation of title and summary a proposed statutory initiative entitled the "Lawyers Fair Fee Act." I am a registered voter in Sacramento County. My home address is 9345 Winding Oak Drive, Fair Oaks 95628.

If you have any questions, please contact me.

Very truly yours,

  
Kirk West

KW:jmc

Enclosure

0402

Date: August 12, 1987  
File No.: SA 87 RF 0019

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

TORT CLAIMS. LIMIT ON ATTORNEY FEES. INITIATIVE STATUTE. Measure places limit on amount of a contingency fee an attorney may collect for representing a person in connection with a tort claim. The fee may be no more than twenty-five percent of first fifty thousand dollars recovered, no more than fifteen percent of next fifty thousand dollars recovered, and no more than ten percent of amount recovered above one hundred thousand dollars. The court may review the fee and reduce it below the stated limits if it is not reasonable and fair. Defines amount recovered to calculate fee limitations. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: Measure contains features which could result in both cost increases and savings. Fiscal magnitude or net fiscal impact on state and local governments is unknown.

**TITLE.**

This shall be known as the Lawyers Fair Fee Act.

**FINDINGS AND DECLARATIONS.**

Californians are required to bear the cost of an increasingly expensive liability system. Expanding costs are caused by the ever-growing number of lawsuits filed and the exorbitant fees that attorneys charge.

The number of tort lawsuits filed has increased at a rate three times greater than the growth of California's population since 1974. Many of these lawsuits are unmeritorious, yet impose costs to process and to litigate.

Attorneys in most tort actions charge a percentage of the judgment. Fees of 40% and even more may be charged. These fees motivate many attorneys to file lawsuits that are of questionable merit.

California taxpayers pay five hundred dollars (\$500.00) for every lawsuit filed whether meritorious or not. Taxpayers pay an additional eight thousand dollars (\$8,000.00) for every lawsuit that goes to trial, whether meritorious or not.

Californians pay more for governmental services, consumer products and services, and for insurance because of the high cost of the liability system. Further, the high cost of the liability system reduces the availability of services, including volunteer services, products, and insurance.

**LIMIT ATTORNEY FEES.**

Section 6146.1 of the Business and Professions Code is added to read:

(a) An attorney shall not contract for or collect a contingency fee in connection with a tort claim, including a claim covered by Section 6146, in excess of the following limits:

- (1) Twenty-five percent of the first fifty thousand dollars (\$50,000) recovered.
- (2) Fifteen percent of the next fifty thousand dollars (\$50,000) recovered.
- (3) Ten percent of the amount of recovery above one hundred thousand dollars (\$100,000).

The limitations shall apply regardless of whether the recovery is by settlement, arbitration, or judgment.

(b) The court, in any action filed seeking damages based on a tort claim, including a claim covered by Section 6146, may on its motion, or on the motion of a party, review the contingency fee arrangement upon notice and hearing to determine whether the fee is reasonable and fair and may order a fee less than the amount set out in subdivision (a). The fee ordered by the court shall not exceed the amount set out in subdivision (a).

(c) If periodic payments are awarded to the plaintiff pursuant to Section 667.7 of the Code of Civil Procedure, the court shall place a total value on these payments based upon the projected life expectancy of the plaintiff and include this total amount in computing the award from which attorney's fees are calculated under this section.

(d) For purposes of this section, "recovered" means the net sum recovered after deducting any disbursements or costs incurred in connection with prosecution or settlement of the claim. Costs of medical care incurred by the plaintiff and the attorney's office-overhead costs or charges are not deductible disbursements or costs for such purpose.



(e) The provisions of this section shall not be amended by the Legislature except by statute passed in each house by roll call vote entered in the journal, two-thirds of the membership concurring, or by a statute that becomes effective only when approved by the electorate.

DECLARATION OF MAILING

The undersigned Declarant, states as follows:

I am over the age of 18 years and not a proponent of the within matter; my place of employment and business address is 1515 K Street, Suite 511, Sacramento, California 95814.

On the date shown below, I mailed a copy or copies of the attached letter to the proponents, by placing a true copy thereof in an envelope addressed to the proponents named below at the addresses indicated, and by sealing and depositing said envelope or envelopes in the United States mail at Sacramento, California, with postage prepaid. There is delivery service by United States mail at each of the places so addressed, or there is regular communication by mail between the place of mailing and each of the places so addressed.

Date of Mailing: August 12, 1987

Subject: TORT CLAIMS. LIMIT ON ATTORNEY FEES. INITIATIVE STATUTE.

Our File No.: SA87RF0019

Name of Proponent(s) and Address(es):

GENE LIVINGSTON  
636 Jerome Street  
Davis, CA 95616

KIRK WEST  
9345 Winding Oak Drive  
Fair Oaks, CA 95628

I declare under penalty of perjury that the foregoing is true and correct.

Executed at Sacramento, California on August 12, 1987.

  
JANET STRICKLIN  
Declarant

Kirk West  
President



California Chamber of Commerce

July 13, 1987

The Honorable John Van de Kamp  
Attorney General for California  
1515 K Street  
Sacramento, California 95814

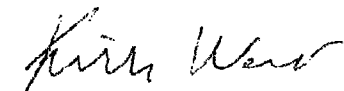
Attention: Paul Dobson, Supervising Deputy Attorney General

Dear Attorney General Van de Kamp:

As one of two proponents, I am submitting for preparation of title and summary a proposed statutory initiative entitled the "Lawyers Fair Fee Act." I am a registered voter in Sacramento County. My home address is 9345 Winding Oak Drive, Fair Oaks 95628.

If you have any questions, please contact me.

Very truly yours,

  
Kirk West

KW:jmc

Enclosure



1340 K Street, Suite 250  
Sacramento, California 95811  
916-442-1111

**Chair**  
**Gene Livingston**  
Livingston & Matresich

**Vice Chair**  
**L. Savannah Lichtman**  
Norcal Mutual Insurance  
Company

**Secretary-Treasurer**  
**Joseph Thomas**  
Pacific Mutual Life Insurance

**W. Howard Davis, D.D.S.**  
California Dental Association

**Thomas C. Elick**  
California Manufacturers  
Association

**Gladden Elliott, M.D.**  
California Medical  
Association

**Burnham Enersen**  
McCutchen, Doyle, Brown &  
Enersen

**John B. Fruster**  
Santa Fe Southern  
Pacific Corporation

**Charles Forbes**  
Amick, Forster & Gordon

**Spencer K. Hutton**  
Thermacore Inc.  
Association

**Philip G. Hayes**  
Gore Furniture Co.  
Company

**Vincent W. Jones**  
Coldwell Banker

**Jerold K. Keating**  
Howlett Puchner

**Michael L. Keston**  
Larwin Company

**Hugo Kevorkian**  
Architects & Engineers  
Conference

**Bart Kimball**  
Pacific Bell

**Del Lowellyn**  
Farmers Insurance Group

**Patrick J. McDonough**  
Johnson & Higgins

**Joseph E. Phillips**  
Southern California Gas Co.

**Leonard Sisk**  
Southern California Edison

**James Stickle**  
Alliance of American Farmers

**Harold Zolner**  
Union Oil

**Association of**  
**Frank A. Hubert**

**Counsel**  
**Fred J. Hiestand**  
916-442-1100

July 13, 1987

Honorable John Van de Kamp  
Attorney General of California  
1515 K Street  
Sacramento, California 95814

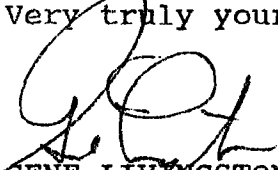
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Dear Attorney General Van de Kamp:

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Please find enclosed a check in the amount of two hundred dollars (\$200.00). I am a registered voter in Yolo County. My address is 636 Jerome Street, Davis, California 95616. If you have any questions, please contact me at the above address.

Very truly yours,



GENE LIVINGSTON

GL:lfs  
enclosure

lvav0713.act

October 1, 1987

HAND-DELIVERED

Honorable March Fong Eu  
Secretary of the State  
1230 J Street  
Sacramento, CA 95814

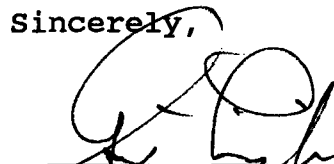
RE: Lawyers Fair Fee Act

Dear Madame Secretary:

Please be advised that as the proponents of the above referenced initiative, we are hereby withdrawing from circulation the Lawyers Fair Fee Act, titled by the Attorney General as "TORT CLAIMS. LIMIT ON ATTORNEY FEES. INITIATIVE STATUTE."

Thank you for your assistance.

Sincerely,



\_\_\_\_\_  
GENE LIVINGSTON, Chairman  
Association for California Tort Reform



\_\_\_\_\_  
KIRK WEST, President  
California Chamber of Commerce

GL/KW:lfs

#15:leuB1001.act

*Eu Fong  
NCD 11/7/87*